



THE CITY OF SAN DIEGO

**Publication Date: 12/06/2004**  
**Requesting Department: City Clerk**  
**Type of Notice: Public Notice**

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**ITEM 601**

**RESOLUTION: R-299922**

**DATE OF ADOPTION  
BY CITY COUNCIL: WEDNESDAY, DECEMBER 1, 2004**

**REGARDING: RESULTS OF THE NOVEMBER 2, 2004 ELECTIONS**

**FOR ADDITIONAL  
INFORMATION,  
CONTACT: BONNIE STONE, (619) 533-4060**

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**PUBLIC NOTICE**

**RESULTS OF NOVEMBER 2, 2004 ELECTIONS**

**RESOLUTION NUMBER R-299922**

**A RESOLUTION DECLARING THE RESULTS OF THE  
GENERAL MUNICIPAL ELECTION AND THE SPECIAL  
MUNICIPAL ELECTION HELD IN THE CITY OF  
SAN DIEGO ON NOVEMBER 2, 2004.**

WHEREAS, a general municipal election was held in the City of San Diego on Tuesday, November 2, 2004, pursuant to the provisions of Ordinance No. O-19304 (New Series), adopted July 26, 2004, which general election was consolidated with the State general election for the purpose of electing a candidate to the office of Mayor, the office of City Attorney, and the office of Councilmember in District No. One; and

WHEREAS, a special municipal election was held in the City of San Diego on the same date, pursuant to the provisions of Ordinance No. O-19305 (New Series), adopted July 26, 2004, which special election was consolidated with the State general election for the purpose of submitting to the qualified voters of the City of San Diego one or more ballot propositions; and

WHEREAS, pursuant to seven separate ordinances, seven propositions were placed upon the November 2, 2004 ballot, which propositions are described as follows:

- (1) One proposition amending the City of San Diego Charter [Charter] by amending Article XIV, by adding Section 216.1, relating to access to government information, was placed on the ballot by Ordinance No. O-19292 (New Series), adopted on June 28, 2004 (Proposition D); and
- (2) One proposition amending the Charter by amending Article V, Sections 40 and 41(d), relating to independent legal counsel for the City of San Diego Ethics Commission, was placed on the ballot by Ordinance No. O-19293 (New Series), adopted on June 29, 2004 (Proposition E); and
- (3) One proposition amending the Charter by adding Article XV, and by adding Sections 250 through 295, relating to changing from the existing City Manager structure of government to a strong mayor structure of government for a five year trial period starting January 1, 2006, was placed on the ballot by Ordinance No. O-19294 (New Series), adopted on June 29, 2004 (Proposition F); and
- (4) One proposition amending the Charter by amending Article IX, Section 143, relating to City contributions to the retirement system, was placed on

the ballot by Ordinance No. O-19299 (New Series), adopted on July 19, 2004 (Proposition G); and

(5) One proposition amending the Charter by amending Article IX, Section 144 and amending Article X, relating to the composition of the Retirement Board, was placed on the ballot by Ordinance No. O-19300 (New Series), adopted on July 19, 2004 (Proposition H); and

(6) One proposition amending the Charter by amending Article VII by adding Section 77c, and by amending the San Diego Municipal Code by amending Chapter 3, Article 5, Division 1 by repealing sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, 35.0108, 35.0128, 35.0130, 35.0131, 35.0132 and 35.0133, and by adding new sections 35.0103 and 35.0130, all relating to increasing the City's transient occupancy tax from 10.5 percent to 13 percent, was placed on the ballot by Ordinance No. O-19307 (New Series), adopted on August 3, 2004 (Proposition J); and

(7) One proposition relating to authorization to sell a portion of Mount Soledad Natural Park to a private owner was placed on the ballot by Ordinance No. O-19306 (New Series), adopted on July 27, 2004 (Proposition K); and

WHEREAS, these propositions read as follows:

<b><u>PROPOSITION D. AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 216.1, ACCESS TO GOVERNMENT INFORMATION.</u></b> Shall the City Charter be amended to provide that the people have the right of access to information concerning the conduct of the people's	YES	
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information concerning the conduct of the people's business?	NO	
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; and

<b><u>PROPOSITION E. AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY AMENDING SECTIONS 40 AND 41(D) TO PROVIDE FOR INDEPENDENT LEGAL COUNSEL FOR THE ETHICS COMMISSION.</u></b> Shall the City Charter be amended to enable the Ethics Commission to retain its own legal counsel, rather than be represented by the City Attorney whose clients include City Officials who may be investigated by the Ethics Commission?	YES	
	NO	

; and

<b><u>PROPOSITION F. AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING ARTICLE XV TO PROVIDE FOR A STRONG MAYOR FORM OF GOVERNANCE.</u></b> Shall the City Charter be amended to change from a City Manager structure of government to a Strong Mayor structure of government for a five year trial period starting January 1, 2006?	YES	
	NO	

; and

<b><u>PROPOSITION G. AMENDS THE CITY CHARTER RELATING TO CITY CONTRIBUTIONS TO THE RETIREMENT SYSTEM.</u></b> Shall the City Charter be amended to preclude any future multi-year agreement between the City and the Retirement Board delaying full actuarial funding of City contributions to the Retirement System, and defining the amortization schedules to be used for payment of costs associated with past service liability and costs associated with reducing the unfunded accrued actuarial liability of the pension system?	YES	
	NO	

; and

<b><u>PROPOSITION H. AMENDS THE CITY CHARTER TO CHANGE THE COMPOSITION OF THE RETIREMENT BOARD.</u></b> Shall the Charter be amended to change the composition of the Retirement Board as follows: seven highly qualified citizen appointees without interests in the City's pension system, four members elected from classifications of active membership (one police, one fire, two general), one member elected from the ranks of the retired, and one member appointed by the City Manager from City management?	YES	
	NO	

; and

<b><u>PROPOSITION J. TRANSIENT OCCUPANCY TAX.</u></b> Shall the City Charter and the San Diego Municipal Code be amended to increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5% to 13% to be used for general governmental purposes?	YES	
	NO	

; and

<b><u>PROPOSITION K.</u> MOUNT SOLEDAD NATURAL PARK</b> Shall the City be authorized to remove from dedicated park status and sell to the highest bidder a portion of Mount Soledad Natural Park, subject to a lease to the Mount Soledad Memorial Association to preserve and maintain the existing granite walls and plaques, and to transfer ownership of the cross to the new buyer who will determine whether to maintain, relocate, or remove the cross or to replace it with another appropriate monument?	YES	
	NO	

; and

WHEREAS, a copy of the certificate of the Registrar of Voters of San Diego County canvassing the returns of the general municipal election and the special municipal election, as certified to the City Clerk, has been duly received; and

WHEREAS, the certificate of the Registrar does not include the results of the mayoral race, such certification having been stayed on November 30, 2004, by the Court of Appeal of the State of California, Fourth Appellate District, Division Three, Case No. G034762 (Super. Ct. No. GIC 838427); and

WHEREAS, a canvass of these elections has been completed and the City Clerk has certified the results, with the exception of the mayoral race, to the City Council; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the Council finds and determines, pursuant to the provisions of Section 27.0411 of the San Diego Municipal Code, as follows:

# I

The whole number of votes cast in the City was 433,807.

## II

The total vote received by each municipal candidate at the general municipal election for the Office of City Attorney and Councilmember, District No. 1 is as follows:

A. FOR CITY ATTORNEY (four-year term)

MICHAEL J. AGUIRRE	206,594
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LESLIE DEVANEY	203,301
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MICHAEL J. AGUIRRE having received a majority of all votes cast is hereby declared elected to the office of City Attorney.

B. FOR COUNCIL DISTRICT NO. 1 (four-year term)

SCOTT PETERS	38,087
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PHIL THALHEIMER	31,535
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SCOTT PETERS having received a majority of all votes cast is hereby declared elected to the office of Councilmember, District No. 1.

## III

The number of votes cast in the City for and against each of the seven propositions which appeared on the ballot as Propositions D, E, F, G, H, J and K, and the total number of votes cast upon that proposition, are as follows:

PROPOSITION D

For	337,887
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Against	71,369
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TOTAL	409,256
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Proposition D received the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have been approved.

PROPOSITION E

For	309,091
Against	91,600
TOTAL	400,691

Proposition E received the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have been approved.

PROPOSITION F

For	209,773
Against	198,097
TOTAL	407,870

Proposition F received the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have been approved.

PROPOSITION G

For	202,238
Against	175,242
TOTAL	377,480

Proposition G received the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have been approved.

PROPOSITION H

For	247,646
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Against	134,727
TOTAL	382,373

Proposition H received the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have been approved.

#### PROPOSITION J

For	175,031
Against	245,805
TOTAL	420,836

Proposition J did not receive the affirmative vote of a majority of the qualified voters voting on such proposition and is hereby declared to have failed.

#### PROPOSITION K

For	177,062
Against	256,745
TOTAL	433,807

Proposition K did not receive the affirmative vote of a two-thirds majority of the qualified voters voting on such proposition and is hereby declared to have failed.

#### IV

The number of votes cast in each precinct for and against the proposition is recorded in the Election Returns Book, which book is a part of the records of this Council.

#### V

The City Clerk is directed to file the following charter amendments with the Secretary of State in accordance with Government Code section 34460: adding Section 216.1 relating to access to government information (Proposition D); amending Article V, Sections 40 and 41(d)

relating to independent legal counsel for the City of San Diego Ethics Commission (Proposition E); adding Article XV and adding Sections 250 through 295 relating to a test implementation of a strong mayor form of governance (Proposition F); amending Article IX, Section 143 relating to City contributions to the retirement system (Proposition G); and amending Article IX, Section 144 and amending Article X relating to the composition of the Retirement Board (Proposition H).

VI

The City Clerk shall make public the results of the canvass of the special municipal election by publication of a copy of this resolution.

Passed and adopted by the Council of San Diego on December 1, 2004 by the following vote:

**YEAS:**                    **PETERS, ZUCCHET, ATKINS, MAIENSCHIN, FRYE, MADAFFER, INZUNZA, MAYOR MURPHY.**

**NAYS:**                    **NONE**

**NOT PRESENT:**       **NONE**

**VACANT:**                **DISTRICT FOUR**

AUTHENTICATED BY:

**DICK MURPHY**  
Mayor of The City of San Diego, California

**CHARLES G. ABDELNOUR**  
City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of  
RESOLUTION NO. **R-299922**, passed and adopted by the Council of The City of San Diego,  
California on **December 1, 2004**.

**CHARLES G. ABDELNOUR**  
City Clerk of The City of San Diego, California

(SEAL)

By: Manuel E. Ketcham, Deputy